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Fourth report on the expulsion of aliens*

By Mr. Maurice Kamto, Special Rapporteur

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I. Introduction

1. During the International Law Commission's consideration, at its fifty-ninth session (7 May-5 June and 9 July-10 August 2007), of the third report on the expulsion of aliens, in particular draft article 4, "Non-expulsion by a State of its nationals", it was observed that the issue of the expulsion of persons having two or more nationalities should be studied in more detail and resolved within draft article 4, or in a separate draft article.[1] Another viewpoint, supported by several members, was that it was not appropriate to address the topic in that context, especially if the Commission's intention was to help strengthen the rule prohibiting the expulsion of nationals.[2] However, the Commission cannot dismiss the issue without first exploring it in more depth.

2. It was also observed that the issue of deprivation of nationality, which was sometimes used as a preliminary to expulsion, deserved thorough study.[1]

3. With regard to his third report, the Special Rapporteur observed that it was not desirable to deal with the issue of dual nationals in connection with draft article 4, as protection from expulsion should be provided in respect of any State of which a person was a national. He believed that the issue could, in particular, have an impact in the context of diplomatic protection in cases of unlawful expulsion. However, in order to respond to the questions posed by several members, the Special Rapporteur planned to analyse further the issue of expulsion of dual nationals and the question of deprivation of nationality as a prelude to expulsion.[3] Such is the purpose of the present report.

II. Expulsion in cases of dual or multiple nationality

4. Nationality is essentially governed by internal law, albeit within the limits set by international law. This language from the preamble to the Commission's draft articles on the nationality of natural persons in relation to the succession of States[4] reflects an old idea expressed, inter alia, in the Convention on Certain Questions relating to the Conflict of Nationality Laws, signed at The Hague on 12 April 1930, which provides that:

> "It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States insofar as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality".[5]

5. It is felt that in matters of nationality, the legitimate interests of both States and individuals must be duly taken into account. Concerning the interests of individuals, the Universal Declaration of Human Rights of 10 December 1948

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[1] See *Official Records of the General Assembly, Sixty-second Session, Supplement No. 10* (A/62/10), para. 227.

[2] Ibid., para. 228.

[3] Ibid., para. 261.

[4] See General Assembly resolution 55/153, annex.

[5] See article 1 of the Convention, which entered into force on 1 July 1937; League of Nations, *Treaty Series*, vol. 179, p. 99.

stipulates that everyone has the right to a nationality;[6] the International Covenant on Civil and Political Rights of 16 December 1966[7] and the Convention on the Rights of the Child of 20 November 1989[8] recognize that every child has the right to acquire a nationality; and on 30 August 1961 States adopted a Convention on the Reduction of Statelessness.[9] Likewise, the European Convention on Nationality[10] of 6 November 1997 and the Commission's articles on nationality of natural persons in relation to the succession of States, of which the United Nations General Assembly took note on 12 December 2000,[11] are based on the principle of the right to a nationality. At the same time, the legitimate interests of States require acknowledgement of their freedom to confer their nationality on or withdraw it from an individual insofar as those measures are consistent with the relevant principles laid down in international law in this area. A State is thus free to establish by law the rule of sole and exclusive nationality or, conversely, to allow cases of dual or multiple nationality.

6. It should be noted that the recognition of dual or multiple nationality is a relatively recent trend. In the past, the acquisition of two or more nationalities by a single individual was discouraged in international law. In fact, until recently opposition to dual nationality was as strong as the movement to prevent statelessness. Cases of dual nationality have increased in the past few decades. Some authors have attributed this to the marital situation of women who acquire a second nationality through marriage.[12] Another factor that could be added, in this era of globalization, is the intensity of international migration and migrants' tendency to become long-term residents of their host countries, where acquisition of the nationality of those countries enables them to become better integrated into the social, political and economic system.

A. Are dual or multiple nationals aliens?

7. The issue of the expulsion of aliens poses particular legal problems when it relates to persons with dual or multiple nationality. First of all, if the individual subject to expulsion has the nationality of the expelling State, is the principle of non-expulsion of nationals strictly applicable? In other words, can a person liable to expulsion be considered an alien if he or she has not lost any of his or her nationalities? Second, in the light of this question, is a State in violation of international law if it expels an individual with dual nationality without first withdrawing its own nationality from that individual?

8. On the first point, some States do, in fact, treat their nationals who also hold another nationality as aliens for purposes other than expulsion. For example, Australia and Hungary have effected an exchange of notes in relation to their consular treaty under which their citizens with dual nationality are treated as aliens

[6] See General Assembly resolution 217 A (III), art. 15, para. 1.

[7] See General Assembly resolution 2200 A (XXI), annex, art. 24, para. 3.

[8] See General Assembly resolution 44/25, annex, art. 7.

[9] United Nations, *Treaty Series*, vol. 989, No. 14458.

[10] *Council of Europe Treaty Series*, No. 166 (see art. 4).

[11] See General Assembly resolution 55/153, annex, art. 1.

[12] See Rey Koslowski, "Challenges of International Cooperation in a World of Increasing Dual Nationality", in Kay Hail Bronner and David Martin (dir. publ.), *Rights and Duties of Dual Nationals: Evolution and Prospects*, The Hague, Kluwer International Law, 2003, pp. 157-182.

in the other country if they enter that country for a temporary stay using the passport of the other State with the appropriate visa.[13] Australia had already held that it could limit certain rights of its nationals, inter alia by treating Australian nationals who simultaneously possessed another nationality as aliens.[14] The United States of America and Poland,[15] as well as Canada and Hungary,[16] have effected exchanges of notes relative to their respective consular treaties that contain similar provisions. It seems that these agreements were concluded to ensure that the citizens of the States concerned could return to their countries of origin after a stay abroad while retaining the nationality of the visited country.

9. In the 1928 *Georges Pinson* case before the French-Mexican Claims Commission, France submitted a claim lodged by an individual with dual French and Mexican nationality. The Commission held that "even if the case were recognized as one of double nationality from the strictly legal point of view, it would be very doubtful if the claimant could not have invoked the Convention notwithstanding, owing to the fact that the Mexican government itself has always considered him, officially and exclusively, as a French subject".[17] It appears, in the light of this case, that States can in fact consider their nationals to be aliens if said nationals have an additional nationality. Such an attitude tends to facilitate the expulsion of dual nationals by the State in question. It will be shown later in this report that this behaviour is not sufficient in itself to serve as a basis for expulsion insofar as the individual concerned remains a national of the expelling State until such time as the latter formally deprives him or her of its nationality, and such an individual may claim that nationality to contest the legality of the expulsion.

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[13] See Ryszard W. Piotrowicz, "The Australian-Hungarian Consular Treaty of 1988 and the Regulation of Dual Nationality", *The Sydney Law Review*, vol. 12, 1990, pp. 569-583, especially pp. 572-576.

[14] See Giovanni Kojanec, "Multiple Nationality" (report), in *Proceedings of the First European Conference on Nationality: "Trends and Developments in National and International Law on Nationality"* (Strasbourg, 18 and 19 October 1999), CONF/NAT(99) PRO1, 3 February 2000. The author adds, "The decision of the High Court of Australia in June 1999, according to which an Australian national possessing simultaneously another nationality may not, in application of Art. 44 of the Constitution, be elected to the Federal Parliament because of his ties to a 'foreign power', illustrates this conception" (ibid., p. 43, para. 5.1).

[15] Exchange of notes (Note No. 38) of 31 May 1972 (pursuant to the Consular Convention of 31 May 1972 between the United States of America and Poland, 24 U.S.T. 1231, T.I.A.S. 7642, 1972 U.S.T. LEXIS 253, entry into force on 6 July 1973) ("Persons entering the Polish People's Republic for temporary visits on the basis of United States passports containing Polish entry visas will, in the period for which temporary visitor status has been accorded (in conformity with the visa's validity), be considered United States citizens by the appropriate Polish authorities for the purpose of ensuring the consular protection provided for in Article 29 of the Convention and the right of departure without further documentation, regardless of whether they may possess the citizenship of the Polish People's Republic", and vice versa).

[16] United Nations, *Treaty Series*, vol. 862, No. 12356 ("Exchange of letters constituting an agreement concerning certain consular matters and passports between Canada and Hungary, Ottawa, 11 June 1964" (accompanying the Trade Agreement signed the same day), entry into force on 25 May 1965).

[17] *Annual Digest of Public International Law Cases* (1927-1928), case No. 195, pp. 299 and 300; see also United Nations, *Reports of International Arbitral Awards*, vol. V, pp. 327-466; commented upon in Myres S. MacDougal, Harold D. Lasswell and Lung-Chu Chen, "Nationality and Human Rights: The Protection of the Individual in External Arenas", *Yale Law Journal*, vol. 83, 1974, pp. 900-908.

10. On the second point, specifically concerning the legality of expelling a person with more than one nationality if that person has not first been denationalized by the expelling State, the rule prohibiting the expulsion of a State's own nationals, proposed by the Special Rapporteur in his third report[18] and unanimously supported by the members of the Commission, tends to support the idea that such an expulsion would be contrary to international law. Yet cases of expulsion of dual nationals without prior denationalization by the expelling State are not unusual in practice. In many cases, the nationality of the individual subject to expulsion is not clear. In order to comply with the obligation of States not to expel their own nationals, some expelling States take the legal precaution of denationalizing the person concerned or refusing to recognize that the person has the nationality of that State on the ground that it has not been sufficiently established. At the same time, practices tending in the opposite direction can also be observed.

11. Requiring the expelling State to denationalize dual nationals prior to expulsion is not without risks, however: the imposition of such an obligation could undermine the expelled person's right of return. Were the expelled person to return to the expelling State, for example as a result of a change of government, this action would be complicated by the denationalization, since such a person would be treated as an alien requesting admission to a foreign State, or else the expelling State would have to restore its nationality to the person in order to enable the latter to exercise the right of return. It therefore appears that the application of a requirement to change a person's status from that of a dual national to that of an alien, by means of denationalization, prior to expulsion is not necessarily in the interest of the expelled person, whose rights the Commission seeks to offer the best possible protection through its work on the issue of the expulsion of aliens.

12. In light of the foregoing, the Special Rapporteur is of the view that:

(a) The principle of the non-expulsion of nationals does not apply to persons with dual or multiple nationality unless the expulsion can lead to statelessness;

(b) The practice of some States and the interests of expelled persons themselves do not support the enactment of a rule prescribing denationalization of a person with dual or multiple nationality prior to expulsion.

13. The legal issues raised by expulsion can be still more complex, depending on whether or not the expelling State is the State of dominant or effective nationality of the person subject to expulsion.

B. Is the expelling State the State of dominant or effective nationality of the person being expelled?

14. As he has already stated in his second report, the Special Rapporteur will refrain from entering into a study of the conditions for acquiring nationality, the topic under examination being the expulsion of aliens and not the legal regime of nationality. The Special Rapporteur on diplomatic protection, John Dugard, has shown in his first report and its addendum the difficulties of this exercise by indicating the limits to the scope of the *Nottebohm* case, from which, in his view, a

[18] See A/CN.4/581, para. 57.

general rule should not be inferred.[19] Incidentally, the Commission's articles on nationality of natural persons in relation to the succession of States retain "habitual residence in the territory" as a criterion for presumption of nationality.[20]

15. The concept of dominant or effective nationality is established in international law and there is no need to discuss it at length here. It is sufficient to recall that it means the character the nationality possesses when it expresses the attachment of a person to a State by ties (social, cultural, linguistic, etc.) stronger than those which might link the person to another State.[21] Although in the practice of States and in the literature a preference for the expression "effective nationality" can be observed, nevertheless the two expressions are used to refer to a rule of international law applicable in the event of multiple nationality. Thus, in the case *Esphahanian v. Bank Tejarat*, the Iran-United States Claims Tribunal stated that the applicable rule of international law was that of dominant and effective nationality.[22]

16. The criterion of effective nationality is applied in cases of conflict of nationalities arising from multiple nationality. The principle is that the dominant nationality prevails over the other nationality or nationalities in a case of conflict of nationalities. Relating to expulsion, a distinction should be made between cases of dual nationality and multiple nationality.

17. In the case of dual nationality, it is a question of knowing which of the two States is the State of dominant nationality of the person facing expulsion. If the expelling State is the State of dominant nationality of the person in question, then in principle and logically, the State cannot expel its own national, by virtue of the rule of non-expulsion by a State of its own nationals. Contrary to the view expressed by a member of the Commission, however, this rule is not absolute, as the Special Rapporteur indicated in his third report.[23] In his final report of 20 June 1988, "The right of everyone to leave any country, including his own, and to return to his country", for the Economic and Social Council and the Commission on Human Rights, Mr. Mubanga-Chipoya discusses a similar point of view, stating that a national of a State may be expelled from his own State with the consent of the receiving country. He writes:

> "The expulsion of a national may therefore be carried out with the explicit or implicit consent of the receiving State upon whose demand the State of the national has the duty to readmit its nationals to its territory".[24]

18. According to the Special Rapporteur, however, while the consent of the State receiving the expelled person is necessary when the person does not have the nationality of that State, this requirement does not appear to apply when the aforementioned receiving State is also one of the two States of which the expelled person has nationality. For even if the receiving State is not the State of dominant or effective nationality of the expelled person, nonetheless there exists between the latter and that State formal legal ties of nationality which the expelled person can invoke if necessary. This State is required to accept its national expelled by the State

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[19] See *Yearbook of the International Law Commission*, vol. II, Part Two, pp. 82-85.

[20] See General Assembly resolution 55/153, annex, art. 5.

[21] See *Dictionnaire de droit international public*, edited by Jean Salmon, Brussels, Bruylant, 2001, p. 725.

[22] See Iran-United States Claims Tribunal Reports, vol. II, p. 157, judgement of 29 March 1983.

[23] See A/CN.4/581, paras. 49-56.

[24] See E/CN.4/Sub.2/1988/35, para. 116.

of dominant nationality by virtue of a rule of international law found, for example, in the Convention regarding the Status of Aliens in the respective Territories of the Contracting Parties, signed in Havana on 20 February 1928, whose article 6 provides that "States are required to receive their nationals expelled from foreign soil who seek to enter their territory".[25]

19. The consent of a State to expulsion can be implicit or presumed. In the case *Jama v. Immigration and Customs Enforcement*,[26] the Supreme Court of the United States of America interpreted United States law as not prescribing prior consent of the receiving country when the United States expelled an alien. While prior consent was considered preferable, the Supreme Court ruled that the law did not require it and that it could not presume otherwise. It must be said that in this case the Government of the United States of America had not sought prior consent because it could not request such consent, the receiving State, Somalia, being in total decay at the time and lacking a functioning government. This interpretation could have been motivated mainly by the fact that the Supreme Court felt that the Government could not detain indefinitely an alien awaiting expulsion when the receiving State had categorically refused to accept the expelled person.[27] The Supreme Court says no more than that, for it refrained from specifically examining obligations under international law.

20. However well-founded it may appear, this argument based on the general political situation in the receiving State loses sight of the rights of the individual, in particular the requirement to protect the rights of the expelled person. The chaotic situation of a country with a non-functioning government and general insecurity would not appear to be an appropriate context to receive a person expelled from abroad. On the contrary, the collapse of the State in a Somalia handed over to the warlords and the widespread violence of armed groups acting with extreme cruelty (the case of the American soldiers tied to vehicles and dragged through the streets of Mogadishu comes to mind) was likely to endanger the life of the expelled person. Consequently, beyond the relationship strictly between States, the fate of the individual concerned should have been taken into account.

21. The determination of dominant nationality can prove to be particularly difficult in certain cases, as the person subject to expulsion can have more than one dominant nationality, considering that the criterion is "habitual residence", or even, in addition, economic interests. Indeed, it is not unusual for a person to spend half the year in another country where he or she also has nationality, and moreover, to hold economic interests in both countries. Expelling such a dual national to a third State does not raise any particular legal problems: if draft article 4, paragraph 2, contained in the third report were to be retained, expulsion could take place in such cases only for exceptional reasons and with the consent of the receiving State. Then there is expulsion to the other State of nationality. Is such expulsion possible? And on what legal grounds? Can it take place without the consent of this receiving State or is such consent required?

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[25] See League of Nations, *Treaty Series*, vol. 132, No. 3045.

[26] See 543 U.S. 335 (2005).

[27] See, in this connection, *Zadvydas v. Davis*, 533 U.S. 678 (2001) (discussing the case of two aliens, one born in Lithuania and refused entry into Germany, and the other born in Cambodia and also refused entry by Germany, as no repatriation agreement existed).

22. In the view of the Special Rapporteur, when the person concerned has two equally dominant nationalities and there is no risk of statelessness arising from his or her expulsion to the other State where he or she also has nationality, expulsion can be envisaged only in two hypothetical cases:

(a) The expelling State allows the person concerned to retain its nationality: in this case it should be able to expel the person to the other State of nationality only with its consent;

(b) The expelling State deprives the person of its nationality, thereby transforming him or her into an alien: in this case the ordinary law on the expulsion of aliens applies, since the expelled person becomes a person with a single nationality, now possessing only the nationality of the receiving State.

These reflections, which are based neither on State practice nor on any sort of jurisprudence, could at best lead to the progressive development of international law on that subject. It would still be necessary to establish the practical need for such development of the law, which the Special Rapporteur doubts.

23. The problem appears even more complex when the expulsion involves a person with several nationalities. In this case, the conflict of nationalities would concern not just two States as in the case of dual nationality, but at least three States, or even more. If only one or two of these States are the States of dominant nationality of the person facing expulsion, the preceding reasoning in the event of expulsion by one of the States of dominant nationality to the other State of dominant nationality should apply. On the other hand, different problems arise if the expulsion takes place from a State of dominant nationality to a State that is not the State of dominant nationality, or from the latter to a State of dominant nationality. In the first example, should the expelling State denationalize the person facing expulsion so that it is not in the position of expelling its own national or so that it need not obtain the prior consent of the receiving State which is not a State of dominant nationality? In the second example, can the expelling State, which is not the State of dominant nationality, expel the person to a receiving State that is the State of dominant nationality without requesting the latter's consent or denationalizing the person in advance, since the receiving State is the State of effective nationality?

24. These are just some of the questions that can be raised by these considerations based on the nationality of the person facing expulsion, taking into account, in cases of multiple nationality entailing a positive conflict of nationalities, the criterion of dominant or non-dominant nationality. The Special Rapporteur continues to doubt the interest and practical utility of entering into such considerations at this stage. He believes that these various scenarios could more appropriately be addressed in the framework of a study on protection of the property rights of expelled persons, which he plans to undertake later, in a report devoted to that question among others.

III. Loss of nationality, denationalization and expulsion

25. The loss of nationality and denationalization do not refer to exactly the same legal mechanism, even though their consequences are similar in the case of expulsion.

A. Loss of nationality and denationalization

1. Loss of nationality

26. A large number of States prevent their nationals from holding another nationality. In these cases, the acquisition of another nationality automatically leads to a loss of the nationality of the State whose legislation proscribes such acquisition.[28]

27. The loss of nationality is the consequence of an individual's voluntary act, whereas denationalization is a State decision of a collective or individual nature. Legislation pertaining to the loss of nationality can be found in various countries on all continents: Algeria,[29] Andorra,[30] Angola,[31] Argentina,[32] Armenia,[33] Austria,[34] Azerbaijan,[35] Bahamas,[36] Bahrain,[37] Bangladesh,[38] Belgium,[39] Bhutan,[40]

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[28] For example, after listing the various cases in which Cameroonian nationality is acquired "by virtue of filiation" and "by virtue of birth in Cameroon", Law No. 68-LF-3 of 11 June 1968, establishing the Nationality Code of Cameroon (*Journal officiel de la République fédérale du Cameroun*, 1968, p. 24, supplement), provides in article 12 that: "All persons born in Cameroonian territory who are not nationals of another State shall ipso facto become Cameroonian nationals". Article 31, contained in chapter IV, entitled "Loss and deprivation of nationality", is more specifically concerned with loss of nationality and provides that:

"The following shall lose Cameroonian nationality:

(a) A Cameroonian who, having reached the age of majority, voluntarily acquires or retains a foreign nationality;

(b) (...);

(c) A person employed in the public service of an international or foreign entity who remains in that employment despite an order to resign from it issued by the Government of Cameroon".

[29] United States Office of Personnel Management, Investigations Service, *Citizenship Laws of the World*, document No. IS-1, p. 15 (March 2001) (citing the Code of Algerian Nationality of 15 December 1978).

[30] Ibid., p. 16.

[31] Ibid., p. 17 (citing Law No. 13/91 of 13 May 1991).

[32] Ibid., p. 19 (citing Argentine Citizenship Law No. 346) (except for dual nationality with Spain); see, however, Alfred M. Boll, *Multiple Nationality and International Law*, Leiden, Nijhoff, 2007, pp. 311-313 (affirming that only citizenship or political rights are lost rather than nationality).

[33] *Citizenship Laws of the World*, p. 20 (citing the Constitution of 5 July 1995 and the Citizenship Law of 26 November 1995); see also Mykola Rudko, "Regulation of Multiple Nationality by Bilateral and Multilateral Agreements", in *Proceedings of the Second European Conference on Nationality: "Challenges to National and International Law on Nationality at the Beginning of the New Millennium"*, (Strasbourg, 8 and 9 October 2001), document CONF/NAT (2001) PRO of 10 December 2001 (citing article 14 of the Constitution).

[34] Boll, *Multiple Nationality and International Law*, Leiden, Nijhoff, 2007, p. 320 (indicating that a request to retain nationality must be submitted in advance, and that approval is given only if this is in the national interest); see also *Citizenship Laws of the World*, p. 24 (citing the Citizenship Law of 1965, as amended, although exceptions are provided for).

[35] *Citizenship Laws of the World*, p. 25 (although exceptions are provided for, particularly concerning treaties); see also Rudko, "Regulation of Multiple Nationality" (citing the Law on Citizenship and the Constitution, sect. 32, art. 109).

[36] Ibid., p. 26 (citing the Constitution of the Bahamas of 10 July 1973).

[37] Ibid., p. 27 (citing the Bahraini Nationality Law of 16 September 1963).

[38] Ibid., p. 28 (citing the Bangladesh Citizenship Order of 1972, although exceptions are provided for).

[39] Ibid., p. 31 (citing the Code of Belgian Nationality of 28 June 1984, amended on 1 January 1992); see also Boll (footnote 32 above), pp. 330-331 (noting the exception of nationality imposed on an individual without voluntary action and that in certain circumstances nationality may be retained by submitting a petition to that effect once every 10 years).

[40] Ibid., p. 35 (citing the Nationality Law of Bhutan of 1958 and the Bhutan Citizenship Act of 1977, amended in 1985).

Bolivia,[41] Botswana,[42] Brazil,[43] Brunei Darussalam,[44] Burundi,[45] Cambodia,[46] Cameroon,[47] China,[48] Democratic Republic of the Congo,[49] Congo,[50] Croatia,[51] Cuba,[52] Czech Republic,[53] Denmark,[54] Djibouti,[55] Dominican Republic,[56] Ecuador,[57] Egypt,[58] Equatorial Guinea,[59] Eritrea,[60]

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[41] Ibid., p. 36 (although exceptions are provided for, particularly for Spain and Latin American States).

[42] Ibid., p. 38 (citing the Constitution of Botswana and the Citizenship Act of 31 December 1982).

[43] Ibid., p. 39 (citing Constitutional Amendment No. 3 of 6 June 1994 and Law No. 818 of 18 September 1949, amended by Decree-Law No. 961 of 13 October 1969, although exceptions are provided for).

[44] Ibid., p. 40 (citing information provided by the diplomatic mission to the United States).

[45] Ibid., p. 43 (citing the Burundian Nationality Code of 10 August 1971).

[46] Ibid., p. 44 (citing Decree No. 913-NS of 20 November 1954 and Law No. 904-NS of 27 September 1954).

[47] Ibid., p. 45 (citing Ordinance No. 2 of 1959 and Law No. 68-LF-13 of 11 June 1968, providing for an exception in the case of marriage to a foreign national).

[48] Ibid., p. 51 [citing the Nationality Law of the People's Republic of China of 10 September 1980; "Interpretations of the Standing Committee of the National People's Congress on the Implementation of the Nationality Law of the People's Republic of China in the Macao Special Administrative Region", 20 December 1999 (regarding the citizenship law concerning Macao)]; and Boll (see footnote 32 above), p. 343.

[49] *Citizenship Laws of the World*, p. 55 (citing the Congolese Civil Code and the Special Law on Congolese Nationality, although exceptions are provided for).

[50] Ibid., p. 56 (citing the Congolese Nationality Code and the regulation bringing it into effect on 29 July 1961).

[51] Ibid., p. 59 (citing the Law of Croatian Citizenship of June 1991) (however, revocation of nationality is not automatic upon the adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality).

[52] Ibid., p. 60 (citing information provided by the Cuban Interest Section of the Swiss diplomatic mission to the United States of America) (however, revocation of nationality is not automatic upon the adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality).

[53] Ibid., p. 62 (citing the Act on the Acquisition and Loss of Citizenship of 1 January 1993, as amended by Law No. 272 of 12 October 1993, Law No. 140 of 28 June 1995 and Law No. 139 of 26 April 1996) (although exceptions are provided for, including in the case of marriage to a foreign national); and Boll (see footnote 32 above), p. 360 (noting an exception in the case of marriage).

[54] Ibid., p. 64 (citing the Danish Nationality Law); (although an exception is provided for in the case of marriage to a foreign national). See, however, the report of the Secretary-General of 28 December 1998, entitled "Human rights and arbitrary deprivation of nationality" (E/CN.4/1999/56, para. 4) (citing Denmark's reply of 22 October 1998: "Denmark signed the European Convention on Nationality on 6 November 1997 in Strasbourg. [...] Arbitrary deprivation of nationality does not occur in Denmark").

[55] *Citizenship Laws of the World*, p. 65 (citing Law No. 200/AN/81 of 24 October 1981).

[56] Ibid., p. 67 (citing article 11 of the Constitution of the Dominican Republic).

[57] Ibid., p. 68 (citing the Constitution of Ecuador of 1998) (although an exception is provided for concerning the treaty with Spain).

[58] Ibid., p. 69 (citing Law No. 17 of 22 June 1958) (however, revocation of nationality is not automatic upon the adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality); and Boll (see footnote 32 above), p. 369 (noting that Egyptian nationality is retained if the individual does not obtain permission to naturalize elsewhere, or if such permission is obtained and the individual files a declaration of retention).

[59] *Citizenship Laws of the World*, p. 72 (citing information provided by the diplomatic mission to the United States).

[60] Ibid., p. 73 (citing the Eritrean Nationality Proclamation) (although exceptions could be provided for in the future).

Estonia,[61] Fiji,[62] Finland,[63] Gabon,[64] Gambia,[65] Germany,[66] Georgia,[67] Ghana,[68] Guatemala,[69] Guinea,[70] Guinea-Bissau,[71] Guyana,[72] Haiti,[73] Honduras,[74] India,[75] Indonesia,[76] Japan,[77] Kazakhstan,[78] Kenya,[79] Kiribati,[80] the Democratic People's Republic of Korea,[81] the Republic of Korea,[82]

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[61] Ibid., p. 74 (citing the Law of 19 January 1995 (in force as of 1 April 1995)); and Rudko (see footnote 33 above), "Regulation of Multiple Nationality" (citing arts. 1 and 3 of the Law on Citizenship); see also arts. 22 and 26-29 of the Law of Citizenship; and the report of the Secretary-General (E/CN.4/1999/56) (see footnote 54 above), paras. 7 and 10 (citing Estonia's reply of 29 September 1998: "As of today no cases of arbitrary deprivation of nationality have been brought before Estonian courts").

[62] *Citizenship Laws of the World*, p. 76 (citing the Federal Constitution of 1997); and Boll (see footnote 32 above), p. 373.

[63] Ibid., p. 77 (citing the Finnish Citizenship Act of 28 June 1968, amended in 1984) (although exceptions are provided for); see also Boll (see footnote 32 above), p. 377 (noting that Finland modified its legislation in 2003 in order to accept dual nationality when sufficient links are maintained with Finland).

[64] *Citizenship Laws of the World*, p. 79 (citing information provided by the diplomatic mission to the United States).

[65] Ibid., p. 80 (citing the Constitution) (although an exception is provided for in the case of marriage to a foreign national).

[66] Ibid., p. 82 (citing German citizenship law) (although exceptions are provided for); and Boll (see footnote 32 above), p. 385 (also noting the exceptions to the rule of revocation).

[67] Rudko (see footnote 33 above) (citing art. 12 of the Constitution and art. 1 of the Georgian Nationality Act).

[68] *Citizenship Laws of the World*, p. 83 (citing the Constitution of Ghana of April 1992) (although an exception is provided for in the case of marriage to a foreign national); and the report of the Secretary-General (E/CN.4/1999/56), para. 15 (citing Ghana's reply of 9 November 1998: "While a lot is to be said for the right to a nationality as a human right one cannot overlook the other side of the coin, namely the effect of such a right on the principle of State sovereignty").

[69] Ibid., p. 86 (citing the Constitution of Guatemala) (although exceptions are provided for where treaties with other Central and South American States are concerned).

[70] Ibid., p. 87.

[71] Ibid., p. 88 (citing the Law of Nationality of 1973).

[72] Ibid., p. 89 (citing the Constitution of Guyana of 1980) (although an exception is provided for in the case of marriage to a foreign national).

[73] Ibid., p. 90 (citing the Constitution of Haiti).

[74] Ibid., p. 91 (citing the Constitution of Honduras) (although many exceptions are provided for, including on the basis of treaties).

[75] Ibid., p. 94 (citing the Citizenship Act of 1955); and Boll (see footnote 32 above), p. 409.

[76] *Citizenship Laws of the World*, p. 95 (citing the Nationality Laws of 1 January 1946, as amended on 1 August 1958) (although exceptions are provided for); and Boll (see footnote 32 above), p. 412 (noting the existence of exceptions).

[77] *Citizenship Laws of the World*, p. 103 (citing the Nationality Act of 4 May 1950); and Boll (see footnote 32 above), p. 436.

[78] *Citizenship Laws of the World*, p. 105 (citing the Law on Citizenship for the Republic of Kazakhstan of 1 March 1992) (although exceptions are possible under treaties concluded with other States members of the Commonwealth of Independent States).

[79] Ibid., p. 106 (citing the Kenyan Constitution); and Boll (see footnote 32), p. 439.

[80] *Citizenship Laws of the World*, p. 108 (citing the Kiribati Independence Order of 12 July 1979) (although an exception is provided for in the case of marriage to a foreign national).

[81] Ibid., p. 109 (citing the Nationality Law of 9 October 1963) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality).

[82] Ibid., p. 110 (citing the Nationality Act of 13 December 1997, later amended); and Boll (see footnote 32 above), p. 442.

Kuwait,[83] Kyrgyzstan,[84] the Lao People's Democratic Republic,[85] Latvia,[86] Lesotho,[87] Liberia,[88] the Libyan Arab Jamahiriya,[89] Lithuania,[90] Luxembourg,[91] Madagascar,[92] Malawi,[93] Malaysia,[94] Malta,[95] the Marshall Islands,[96] Mauritania,[97] Micronesia (Federated States of),[98] Moldova,[99]

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[83] *Citizenship Laws of the World*, p. 112 (citing the Constitution of Kuwait); Amiral Decree of 1959, as amended, art. 4, para. 5, and arts. 13, 14 and 21 *bis*; and the report of the Secretary-General (E/CN.4/1999/56), paras. 19 and 20 (citing Kuwait's reply of 30 October 1998: "[...] matters relating to nationality are of great importance to the State insofar as they involve aspects that affect the homeland, as well as considerations concerning the sovereign entity of the State, its internal and external security and its social and economic situation and circumstances, in addition to the fact that nationality implies a bond of loyalty and a sense of patriotism in the absence of which it becomes necessary and even essential to withdraw citizenship status from a person who has acquired it").

[84] *Citizenship Laws of the World*, p. 113 (citing the draft constitution of 5 May 1993) (although exceptions are possible under treaties concluded with other States members of the Commonwealth of Independent States); and Rudko, "Regulation of Multiple Nationality" (see footnote 33 above) (citing the Constitution, art. 13; the Law of the Kyrgyz Republic, art. 5; the Belarus — Kazakhstan — Kyrgyzstan — Russian Federation Agreement; and the Russian Federation — Kyrgyzstan Agreement (simplified procedure for acquiring citizenship)).

[85] *Citizenship Laws of the World*, p. 114 (citing the Law of Laotian Citizenship of 29 November 1990) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality).

[86] Ibid., p. 115 (citing the Citizenship Law of the Republic of Latvia); Rudko, "Regulation of Multiple Nationality" (citing the Constitutional Law, art. 5, and the Citizenship Law, arts. 1 and 9) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality); and Boll (see footnote 32 above), p. 445 (indicating that revocation of Latvian nationality is "possible" through a court decision).

[87] *Citizenship Laws of the World*, p. 118 (citing the revised Constitution of 1993 and the Lesotho Citizenship Order of 1971) (although exceptions are provided for in the case of marriage to a foreign national).

[88] Ibid., p. 119 (citing the Constitution of the Republic of Liberia).

[89] Ibid., p. 120 (citing Nationality Law No. 17 of 1954 and Law No. 3 of 1979).

[90] Ibid., p. 122 (citing the Law on Citizenship of the Republic of Lithuania of 5 December 1991); and Rudko, "Regulation of Multiple Nationality" (citing the Constitution, art. 12, and the Law of the Lithuanian Republic, art. 1).

[91] *Citizenship Laws of the World*, p. 123 (citing the Law of 1 January 1987); and Boll (see footnote 32 above), p. 450.

[92] *Citizenship Laws of the World*, p. 124 (citing Ordinance No. 60-064 of 22 July 1960) (although exceptions are provided for in the case of marriage to a foreign national).

[93] Ibid., p. 125 (citing the Malawi Citizenship Act of 6 July 1966) (although exceptions are provided for in the case of marriage to a foreign national).

[94] Ibid., p. 126 (citing the Constitution of Malaysia); and Boll (see footnote 32 above), p. 454 (noting that revocation is discrétionary).

[95] *Citizenship Laws of the World*, p. 129 (citing the 1964 Constitution, as amended, and the Maltese Citizenship Act) (although exceptions are provided for).

[96] Ibid., p. 130 (citing the Constitution of the Marshall Islands of 21 December 1978 and the Immigration Law of the Marshall Islands) (although exceptions are provided for in the case of marriage to a foreign national).

[97] Ibid., p. 131 (citing the Nationality Code of 12 June 1961) (although an exception is provided for in the case of marriage to a foreign national).

[98] Ibid., p. 134 (citing the Citizenship and Naturalization Act of 10 May 1979).

[99] Ibid., p. 135 (citing the Law of Citizenship of 23 June 1990); and Rudko, "Regulation of Multiple Nationality" (citing the Constitution, art. 18, and the Law on Citizenship of Moldova, art. 4).

Monaco,[100] Mongolia,[101] Mozambique,[102] Myanmar,[103] Namibia,[104] Nauru,[105] Nepal,[106] the Netherlands,[107] Nicaragua,[108] the Niger,[109] Norway,[110] Oman,[111] Pakistan,[112] Palau,[113] Panama,[114] Papua New Guinea,[115] the Philippines,[116] Qatar,[117] the Russian Federation,[118] Rwanda,[119]

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[100] *Citizenship Laws of the World*, p. 136 (citing the Acquisition of Monegasque Nationality of 1 January 1987); report of the Secretary-General (E/CN.4/1999/56), paras. 21-23 (citing Monaco's reply of 19 September 1998); the Constitution of 17 December 1962, art. 18 ("Loss of Monegasque nationality in any other circumstances may occur only as a result of the intentional acquisition of another nationality or of service unlawfully carried out in a foreign army"); Act No. 572 of 18 November 1952, arts. 5 and 6 (concerning the acquisition of Monegasque nationality); Act No. 1155 of 18 December 1992, chaps. III-V, sect. I (concerning nationality); and Ordinance No. 10.822 of 22 February 1993.

[101] *Citizenship Laws of the World*, p. 137 (citing the Constitution of Mongolia of 13 January 1992) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality upon application).

[102] Ibid., p. 139 (citing the Law of Nationality of 1975, as amended in November 1990).

[103] Ibid., p. 140 (citing information provided by the diplomatic mission to the United States).

[104] Ibid., p. 141 (citing the Constitution of the Republic of Namibia of 21 March 1990).

[105] Ibid., p. 142 (citing the Constitution of 30 January 1968 and the Nauruan Community Ordinance of 1956-1966).

[106] Ibid., p. 143 (citing the Constitution, as amended in 1990, and the Nepal Citizenship Act of 1964).

[107] Ibid., p. 144 (citing the Nationality Act of 1984) (although exceptions are provided for); and Boll (see footnote 32), p. 465 (noting exceptions to revocation if the nationality acquired is based on birth in another State or if the individual has only lived in the foreign State as a minor for not more than five years; these exceptions do not apply, however, to certain nationalities such as those of Austria, Belgium, Denmark, Luxembourg and Norway).

[108] *Citizenship Laws of the World*, p. 147 (citing the Constitution of Nicaragua) (although exceptions are provided for under treaties with Central and South American countries).

[109] Ibid., p. 148 (citing information provided by the diplomatic mission to the United States).

[110] Ibid., p. 150 (citing the Norwegian Nationality Act of 8 December 1950) (although exceptions are provided for); and Boll (see footnote 32), p. 475 (noting that exceptions are provided for).

[111] *Citizenship Laws of the World*, p. 151 (citing information provided by the diplomatic mission to the United States) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality).

[112] Ibid., p. 152 (citing the Pakistan Citizenship Act of 13 April 1951).

[113] Ibid., p. 153 (citing the Constitution of Palau of 1994).

[114] Ibid., p. 155 (citing the Panamanian Constitution).

[115] Ibid., p. 156 (citing the Constitution of 16 September 1975 and the Citizenship Act of 13 February 1976) (although exceptions are provided for in the case of marriage to a foreign national).

[116] Ibid., p. 159 (citing the Constitution of the Philippines of 2 February 1987); and Boll (see footnote 32 above), p. 484 (noting that revocation applies only if the person concerned must swear an oath of allegiance in another country and that persons who are Philippine nationals by birth may resume nationality later).

[117] *Citizenship Laws of the World*, p. 162 (citing Law No. 2 of 1961, as amended by Law No. 19 of 1963 and Law No. 17 of 1966).

[118] Ibid., pp. 164-165 (citing the Law on Citizenship of 6 February 1992) (although exceptions are provided for under treaties with other States); and Rudko (see footnote 33 above) (citing the Constitution, arts. 6 and 62; the Law on Dual Nationality, art. 3; the Agreement between the Russian Federation and Turkmenistan on the regulation of dual citizenship matters of 23 December 1993, *Diplomaticheskii vestnik*, 1994, No. 1-2, pp. 24-25; and the Agreement between the Russian Federation and the Republic of Tajikistan on regulation of dual citizenship matters of 7 September 1995, *Diplomaticheskii vestnik*, 1995, No. 10, pp. 23-26).

[119] *Citizenship Laws of the World*, p. 166 (citing the Code of Rwandese Nationality of 28 September 1963).

Sao Tome and Principe,[120] Saudi Arabia,[121] Senegal,[122] Seychelles,[123] Sierra Leone,[124] Singapore,[125] Solomon Islands,[126] South Africa,[127] Spain,[128] Sri Lanka,[129] the Sudan,[130] Swaziland,[131] the Syrian Arab Republic,[132] Tanzania (United Republic of),[133] Thailand,[134] Tonga,[135] Turkey,[136] Uganda,[137] Ukraine,[138]

[120] Ibid., p. 171 (citing the Law of Nationality of 13 September 1990).

[121] Ibid., p. 172 (citing the Saudi Nationality Law).

[122] Ibid., p. 173 (citing the Senegalese Code of Nationality of 1960, as amended in 1989) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality).

[123] Ibid., p. 174 (citing the 1970 Constitution and the Citizenship of Seychelles Act of 29 June 1976).

[124] Ibid., p. 175 (citing the Law of Citizenship of 1961).

[125] Ibid., p. 176 (citing the Constitution of Singapore of 9 August 1965); and Boll (see footnote 32 above), p. 503.

[126] *Citizenship Laws of the World*, p. 180 (citing the Solomon Islands Independence Order No. 783 of 7 July 1978).

[127] Ibid., p. 182 (citing the South African Citizenship Act of 1995 (Act No. 88 of 1995), as amended) (although exceptions are provided for); and Boll (see footnote 32 above), p. 511 (noting that nationality may be retained provided permission has been granted).

[128] *Citizenship Laws of the World*, p. 184 (citing arts. 17-26 of the Civil Code, as amended by Law No. 18/1990 and Law No. 29/1995) (although exceptions are made under treaties with Argentina, Bolivia, Chile, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Honduras, Nicaragua, Paraguay and Peru); and Boll (see footnote 32), p. 515 (noting that revocation is possible only if the person concerned resides abroad for three years, unless Spain is at war or the person concerned has notified the authorities of his or her intention to preserve Spanish nationality).

[129] *Citizenship Laws of the World*, p. 185 (citing the Citizenship Act of Sri Lanka of 22 May 1972, as amended in 1987) (although exceptions are provided for).

[130] Ibid., p. 186 (citing the Law of Sudanese Nationality No. 22 of 1957; Law No. 55 of 1970; and Law No. 47 of 1972).

[131] Ibid., p. 188 (citing information provided by the diplomatic mission to the United States) (although an exception is provided for in the case of nationality acquired by birth, which cannot be revoked).

[132] Ibid., p. 192 (citing information provided by the diplomatic mission to the United States); and Boll (see footnote 32 above), p. 527 (noting that the person concerned may be permitted to retain nationality, but that foreign nationality is usually not recognized and nationality is retained regardless).

[133] *Citizenship Laws of the World*, p. 195 (citing the Tanzanian Citizenship Act No. 6 of October 1995) (although exceptions are provided for in case of marriage to a foreign national).

[134] Ibid., p. 196 (citing the Nationality Act of 1965, as modified by amendment No. 2 AD 1992 and amendment No. 3 AD 1993); and Boll (see footnote 32 above), p. 533.

[135] *Citizenship Laws of the World*, p. 199 (citing the Nationality Act, as amended 1915 through 1988; 2 Laws of Tonga, chap. 59 (1988 ed.)); and Boll (see footnote 32 above), p. 536.

[136] Ibid., p. 202 (citing the Constitution, art. 66, and Law No. 403 of the Turkish Citizenship Law of 1964); also Boll (see footnote 32 above), p. 542 (revocation is discretionary; authorization to retain nationality is possible).

[137] *Citizenship Laws of the World*, p. 205 (citing the Constitution).

[138] Ibid., p. 206 (citing the 1991 Statute on Citizenship); Rudko (see footnote 33) (citing the Law on Succession of Ukraine, 12 September 1991, arts. 6-7; the Convention between Ukraine and the Socialist Federal Republic of Yugoslavia, 22 May 1956 (succession to convention assumed); the Convention between Ukraine and Hungary, 24 August 1957; the Convention between Ukraine and Romania, 4 September 1957; the Convention between Ukraine and Albania, 18 September 1957; the Convention between Ukraine and Czechoslovakia, 5 October 1957; the Convention between Ukraine and Bulgaria, 12 December 1957; the Convention between Ukraine and the Democratic People's Republic of Korea, 16 December 1957; the Convention between Ukraine and Poland, 21 January 1958; and the Convention between Ukraine and Mongolia, 25 August 1958).

United Arab Emirates,[139] Uzbekistan,[140] Vanuatu,[141] Venezuela (Bolivarian Republic of),[142] Viet Nam,[143] Yemen,[144] Zambia[145] and Zimbabwe;[146] in other words, the vast majority of States.[147] In principle, these legal provisions entail no

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[139] Ibid., p. 207 (citing Nationality Law No. 17 of 1 January 1972, as amended by Law No. 10 of 1975).

[140] Ibid., p. 211 (citing the Citizenship Law).

[141] Ibid., p. 212 (citing the Constitution of 30 July 1983, sect. 10); and Boll (see footnote 32 above), p. 559.

[142] Ibid., p. 213 (citing the Constitution).

[143] Ibid., p. 214 (citing the Law of Vietnamese Nationality, as revised on 15 July 1988).

[144] Ibid., p. 216 (citing Citizenship Law No. 2 of 1975).

[145] Ibid., p. 218 (citing the Constitution) (although an exception is provided for in case of marriage to a foreign national).

[146] Ibid., p. 219 (citing the Constitution); and Boll (see footnote 32 above), p. 565.

[147] The following States do not withdraw their nationality from individuals possessing another nationality: Antigua and Barbuda (*Citizenship Laws of the World*, p. 18 (citing the Citizenship Law of 1 November 1981)); Australia (ibid., pp. 22-23 (citing the Australian Citizenship Act of 1948)); Barbados (ibid., p. 29 (citing the Constitution)); Belarus (ibid., p. 30 (citing the Law of the Republic of Belarus, Laws of Citizenship, 18 October 1991); Rudko (see footnote 33 above), citing the Law on Citizenship, art. 1, and the Agreement between Belarus and Kazakhstan; and Boll (see footnote 32 above), p. 326 (indicating that Belarus amended its legislation in 2002 to abolish automatic revocation of nationality in case of naturalization in another State)); Belize (*Citizenship Laws of the World*, pp. 32-33 (citing the Belize Nationality Act, chap. 127 A of the Laws of Belize, R.E. 1980-1990)); Benin (ibid., p. 34 (citing the Law of Civil Rights)); Bulgaria (ibid., p. 41 (citing the Law on Bulgarian Citizenship of November 1998)); Burkina Faso (ibid., p. 42 (not prohibited)); Canada (ibid., p. 46 (citing the Canadian Citizenship Act of 1947, the Citizenship Act and the Citizenship Regulations of 1977)); Cape Verde (ibid., p. 47 (citing information provided by the diplomatic mission to the United States)); Central African Republic (ibid., p. 48 (citing the Constitution of 7 January 1995)); Chile (ibid., p. 50 (citing information provided by the diplomatic mission to the United States) (although exceptions are provided for by treaty with respect to Spanish nationality); see also the November 1990 repatriation agreement between Chile, the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees (UNHCR), art. II (allowing the return of Chilean refugees, including those who had lost Chilean nationality through naturalization abroad in the asylum State); also Boll (see footnote 32 above), p. 340 (noting that Chile revised its constitutional rules in 2005 to allow dual nationality)); Colombia (*Citizenship Laws of the World*, p. 53 (citing the Constitution of July 1991 and Citizenship Law No. 43 of 1 February 1993)); Costa Rica (ibid., p. 57 (citing the Constitution)); Côte d'Ivoire (ibid., p. 58 (citing information provided by the diplomatic mission to the United States); and Boll (see footnote 32 above), p. 429); Cyprus (*Citizenship Laws of the World*, p. 61 (citing the Republic Law of 1967)); Timor-Leste (Boll (see footnote 32 above), p. 363 (citing the Constitution of 20 May 2002 and Law No. 9/2002 on nationality of 5 November 2002)); El Salvador (*Citizenship Laws of the World*, p. 71 (citing the Salvadoran Constitution) (although only those who are Salvadorans by birth have the right to enjoy dual nationality)); France (ibid., p. 78 (citing the French Nationality Code); and Boll (see footnote 32 above), p. 381 (noting, however, that France is a party to the 1963 Council of Europe Convention and the 1993 Protocol)); Greece (*Citizenship Laws of the World*, p. 84 (citing the Code of Greek Citizenship, as amended in 1968 and 1984) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality)); and Boll (see footnote 32 above), p. 391 (noting that nationality is not automatically lost upon naturalization elsewhere, although some exceptions to this rule are provided for). Greece could alternatively be placed in the automatic revocation list because it apparently reserves the power to revoke; Grenada (*Citizenship Laws of the World*, p. 85 (citing the Grenada Constitution Order of 19 December 1973)); Hungary (ibid., p. 92 (citing Law No. 55 of 1 June 1993)); Iceland (ibid., p. 93 (citing the Icelandic Nationality Act of 23 December 1952, as amended on 11 May 1982 and 12 June 1998) (although some exceptions are provided for); and Boll (see footnote 32),

pp. 405-406 (noting that the legislation was amended in 2003 to allow the retention of dual nationality provided that the individual had ties to Iceland)); Ireland (*Citizenship Laws of the World*, p. 99 (citing the Irish Nationality and Citizenship Act of 1956)); Iran (Islamic Republic of) (ibid., p. 97 (citing the Iranian Civil Code) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality)); and Boll (see footnote 32 above), p. 415 (noting that naturalization elsewhere may lead to loss of property and disqualification from holding government office)); Israel (*Citizenship Laws of the World*, p. 100 (citing the Citizenship Law of 1952, as amended in 1968); and Boll (see footnote 32 above), p. 423 (noting an exception for the acquisition of the nationality of a "hostile" State, which leads to revocation)); Italy (*Citizenship Laws of the World*, p. 101 (citing the Italian Law on Nationality, as amended on 5 February 1992); and Boll (see footnote 32), p. 427 (noting an exception with regard to a State at war with Italy, and pointing out that Italy is a party to the 1963 Council of Europe Convention) (also noting that failure to notify the Italian authorities of the acquisition of another nationality is subject to a fine)); Jamaica (*Citizenship Laws of the World*, p. 102 (citing the Jamaican Nationality Act of 1962, as amended on 2 March 1993)); Jordan (ibid., p. 104 (citing the Jordanian Citizenship Act of 1954) (although acquisition of a second nationality is subject to prior authorization unless it is the nationality of an Arab State)); Lebanon (ibid., p. 117 (citing information provided by the diplomatic mission to the United States)); Maldives (ibid., p. 127); Mali (ibid., p. 128 (citing the Code of Nationality, regulation No. 95-098 of 1995)); Mauritius (ibid., p. 132 (citing the Mauritius Independence Order of 4 March 1968)); Mexico (ibid., p. 133 (citing the Federal Constitution, as amended on 20 March 1998); and Boll (see footnote 32), p. 457 (noting an exception for naturalized Mexican nationals, who do lose Mexican nationality)); Morocco (*Citizenship Laws of the World*, p. 138 (citing the Code of Moroccan Nationality of 6 September 1958)); New Zealand (ibid., p. 145 (citing the Constitution of 1 January 1949). However, see Boll (see footnote 32), p. 468 (noting an exception when the naturalization abroad is by voluntary act and the individual commits acts against the State or exercises rights contrary to State interests)); Nigeria (*Citizenship Laws of the World*, p. 149 (citing the Constitution of 1989); and Boll (see footnote 32), p. 471 (noting an exception for naturalized citizens)); Paraguay (*Citizenship Laws of the World*, p. 157 (citing the Constitution) (although the rule concerning the revocation of nationality applies only to naturalized citizens); and Boll (see footnote 32), p. 478 (noting that it only applies to naturalized nationals and that nationals by birth are deprived of rights of citizenship upon naturalization elsewhere, not revocation of nationality)); Peru (*Citizenship Laws of the World*, p. 158 (citing the Constitution of 31 October 1993 and Nationality Law No. 26574 of January 1996)); Poland (ibid., p. 160 (citing the Constitution and the Citizenship Act of 15 February 1962) (although revocation of nationality is not automatic upon adoption of a subsequent nationality but dependent on the State's releasing the individual from nationality)); Portugal (ibid., p. 161 (citing Citizenship Law No. 37/81 of 1981 and Decree-Law No. 322/82); and the report of the Secretary-General (E/CN.4/1999/56), para. 25 (citing Portugal's reply of 3 December 1998: "In accordance with the Portuguese Law on Nationality (art. 8), no Portuguese citizen shall be deprived of his or her nationality unless he or she, being a national of another State, declares that he or she does not wish to be Portuguese. Therefore, no arbitrary deprivation of nationality is possible within the Portuguese legal framework")); Romania (*Citizenship Laws of the World*, p. 163 (citing Law No. 21 of 1991)); Saint Kitts and Nevis (ibid., p. 167 (citing the Constitution)); Saint Lucia (ibid., p. 168 (citing the Citizenship Act of 5 June 1979)); Saint Vincent and the Grenadines (ibid., p. 169 (citing the Constitution of 27 October 1979 and the Citizenship Act of 1984)); Samoa (ibid., p. 170 (citing the Citizenship Act of 1972, 9 August 1972) (although exceptions are provided for in case of marriage to a foreign national); however, see Boll (see footnote 32), p. 500 (indicating that the legislation was amended in 2004 to allow dual nationality)); Slovakia (*Citizenship Laws of the World* p. 177 (citing the National Council of the Slovak Republic Law No. 40 of 19 January 1993)); Slovenia (ibid., p. 178 (citing the Citizenship Act of 25 June 1991) (although exceptions are provided for); and Boll (see footnote 32), p. 508); Sweden (*Citizenship Laws of the World*, p. 189 (citing the Swedish Nationality Law); and Boll (see footnote 32), p. 518 (citing the Swedish Citizenship Act of 1 July 2001); Switzerland (*Citizenship Laws of the World*, p. 190 (citing the Swiss Citizenship Law of 29 September 1952, as amended in 1984 and

risk of statelessness, insofar as the person concerned can retain the nationality which he or she would lose upon adopting another nationality by repudiating that other nationality.

2. Denationalization

28. Unlike loss of nationality, which, as seen above, is the consequence of a voluntary act on the part of the individual concerned, denationalization is a State decision that deprives a class of people, or one or more individuals, of the nationality of that State. In practice, some States, in special circumstances such as war, succession of States or the reprehensible conduct of a given individual, have in fact deprived the persons involved in these situations or engaged in such conduct of their nationality. Denationalization may take any of the following forms:

(a) Collective withdrawal of nationality through the enactment of a restrictive nationality law that takes away the nationality of a given State, for ethnic or other reasons, from a large number of citizens or permanent or long-term residents of the territory of that State. The cases generally cited are those of Germany,[148] Italy,[149] Hungary, Romania[150] and Czechoslovakia in the period preceding the Second World War. Situations of this type have arisen more recently

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1990)); Togo (ibid., p. 198 (citing information provided by the diplomatic mission to the United States)); Trinidad and Tobago (ibid., p. 200 (citing the Constitution, as amended in 1976, and the Citizenship Act of 30 August 1962)); Tunisia (ibid., p. 201 (citing the Code of Nationality of 26 January 1956)); Tuvalu (ibid., p. 204 (citing the Constitution of Tuvalu Ordinance of 15 September 1986 and the Citizenship Ordinance of 1979); and Boll (see footnote 32 above), p. 545 (with the exception of naturalized citizens)); United Kingdom of Great Britain and Northern Ireland (*Citizenship Laws of the World*, pp. 208-209 (citing the British Nationality Act of 1984); and the report of the Secretary-General (E/CN.4/1999/56), para. 31 (b) (citing the United Kingdom's reply of 26 October 1998: "A person who acquired [one of the various forms of British nationality] by or as a result of naturalization or registration otherwise than under the British Nationality Acts 1948 to 1964 may additionally be deprived of that citizenship or status if he or she: [...] (iii) Has, within five years of the date of registration or naturalization, been sentenced to imprisonment for at least 12 months and would not, on losing British nationality, become stateless"); British Nationality Act 1981, sect. 40 (c. 61), Hong Kong (British Nationality) Order 1986, art. 7 (No. 948)); United States of America (report of the Secretary-General (E/CN.4/1999/56), para. 39 (citing the reply of the United States of America of 9 October 1998)); and Uruguay (*Citizenship Laws of the World*, p. 210 (citing the Constitution) (although this rule applies only to those who are Uruguayan by birth); and Boll (see footnote 32), p. 556 (noting an exception for naturalized citizens, but only if they do not maintain residency or other ties to Uruguay) (also noting that nationals do lose citizenship rights, though not nationality, when they are naturalized elsewhere)).

148 Reich Citizenship Law, 15 September 1935 (Germany) (sometimes referred to as the "Law on the Retraction of Naturalizations and the Derecognition of German Citizenship" or the "Nuremberg Laws") (denationalizing any German national who acquired German nationality between the end of the First World War and Hitler's assumption of power in January 1933). See Paul Abel, "Denationalization", Modern Law Review, vol. 6, 1942, pp. 57-68, especially pp. 59-61; also McDougal, Lasswell and Chen (see footnote 17 above).

149 See Cécil Roth, The History of the Jews of Italy, Philadelphia, Jewish Publication Society of America, 1946, pp. 524-27 (withdrawal of all naturalization certificates issued to Jews between 1 January 1919 and 17 December 1938).

150 See Peter Meyer et al., *The Jews in the Soviet Satellites*, Syracuse, Syracuse University Press, 1953, pp. 384 and 500.

in States such as Bhutan,[151] Côte d'Ivoire,[152] the Democratic Republic of the Congo,[153] the Dominican Republic,[154] Kenya,[155] Kuwait,[156] Myanmar,[157] the Russian Federation,[158] Thailand,[159] Zambia[160] and Zimbabwe;[161]

(b) Denaturalization, which is an option made available under some bilateral conventions between countries of emigration and countries of immigration authorizing emigrants who had acquired the nationality of the host country through naturalization to revert to their nationality of origin if they subsequently establish residency in their country of origin.[162] Such individuals then revert to the status of

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[151] See Human Rights Watch, *Nepal: Bhutanese Refugees Rendered Stateless* (18 June 2003), available at www.hrw.org/press/2003/06/nepal-bhutan061803.htm (individuals of Nepalese origin). But see *infra* for discussion of the fact that some regard the expelled individuals as never having had Bhutanese nationality.

[152] See Daniel Chirot, "The Debacle in Côte d'Ivoire", *Journal of Democracy*, vol. 17, 2006, No. 2, p. 68; and Human Rights Watch, *The New Racism: The Political Manipulation of Ethnicity in Côte d'Ivoire*, vol. 13, No. 6(A), August 2001, available at http://www.hrw.org/reports/2001/ivorycoast/cotdiv0801.htm (requirement that both parents be natives of Côte d'Ivoire in order to transmit that nationality to their children).

[153] Jeremy Sarkin, *Toward Finding a Solution for the Problems Created by the Politics of Identity in the Democratic Republic of the Congo (DRC): Designing a Constitutional Framework for Peaceful Cooperation*, Conference on Politics of Identity and Exclusion in Africa (25-26 July 2001) (discussion of the Banyamulenge people concentrated in the north-east).

[154] See *Dilcia Yean and Violeta Boscia v. Dominican Republic*, Case No. 12,189, Report of Admissibility No. 28/01, Organization of American States (OAS) document OEA/Ser.L/V/II.111 doc. 20 rev., p. 252 (2000) (Inter-American Commission on Human Rights, 22 February 2001) (alleging that two girls who were born in the State of Haitian ancestry were denied Dominican nationality notwithstanding the fact that the Dominican Republic's Constitution grants nationality *jus soli*).

[155] African Society of International and Comparative Law and Minority Rights Group International, joint statement at the United Nations Commission on Human Rights, fifty-ninth session (2003) (discussing the Nubian community forcibly resettled by the British from the Sudan); K. Singo'ei, "Meet the Nubians, Kenya's Fifth-Generation 'Foreigners'", *East Africa Magazine* (15 July 2002); United Nations press release (HR/CN/1017) of 3 April 2003, *Commission on Human Rights Hears from NGOs Charging Violations Around World.*

[156] See Human Rights Watch, *Kuwait: promises Betrayed: Denial of Rights of Bidun, Women, and Freedom of Expression*, vol. 12, No. 2(E), October 2000; and United States Department of State, *Country Reports on Human Rights Practices — 2003: Kuwait* (25 February 2004) (discussing the "Bidun" groups).

[157] See Amnesty International, *The Rohingya Minority: Fundamental Rights Denied (May 2004)*; and Human Rights Watch, *Living in Limbo: Burmese Rohingya in Malaysia*, August 2000, vol. 12, No. 4(C) (discussing the Rohingya Muslim minority in Ankara state).

[158] The Meskhetian minority in the Krasnodar Krai region were considered nationals of the Union of Soviet Socialist Republics, but nationality under the 1991 Citizenship Law of the Russian Federation was refused, although the law appears to grant it under article 13(1).

[159] See Marwaan Macan-Markar, "Thailand: Fear of Expulsion Haunts Hill Tribes", *Asia Times* (30 July 2003); "The Struggle for the Highlands: Accused of endangering the environment, Thailand's tribespeople face eviction and an uncertain future", 25(43) *Asiaweek* (29 October 1999).

[160] See African Commission on Human and Peoples' Rights, *Legal Resources Foundation v. Zambia*, 211/98 of 7 May 2001, in *Fourteenth Annual Activity Report of the African Commission on Human and Peoples' Rights (2000-2001)*, thirty-seventh session, Organization of African Unity (OAU), document AHG/229(XXXVII) (2-12 July 2001), pp. 78-91.

[161] Grant Ferrett, *Citizenship Choice in Zimbabwe*, BBC News (28 February 2003), available at http://news.bbc.co.uk/2/hi/africa/2806913.stm.

[162] *Dictionnaire de droit international public*, edited by Jean Salmon, Brussels, Bruylant, 2001, p. 320.

aliens with respect to the country to which they had emigrated and are subject to expulsion therefrom under ordinary law;

(c) Deprivation of nationality, which is the withdrawal by a State of its nationality from an alien who has acquired it, for security reasons or any other grounds generally provided for in its domestic criminal law. Such legislation may provide that an alien who has acquired the nationality of the State concerned may be deprived of that nationality: (a) if the person has been convicted of a crime or offence against the domestic or external security of that State; (b) if the person has committed acts contrary to the interests of that State.[163]

29. Neither loss of nationality nor denationalization should lead to statelessness. In the case of denationalization in particular, there is a general obligation not to denationalize a citizen who does not have any other nationality. Likewise, nationality cannot effectively be lost unless the person concerned has effectively adopted another nationality. In addition, denationalization should not be arbitrary or based on discriminatory grounds. In all cases, both loss of nationality and denationalization change a person's status from that of a national to that of an alien and make him or her subject to expulsion from the State whose nationality he or she possessed until that time.

B. Expulsion in cases of loss of nationality or denationalization

30. Although dual or multiple nationality is widely recognized today, it does not seem possible to establish the existence of a rule of customary law in this regard. In the Ethiopia v. Eritrea case, the Claims Commission considered that revocation of nationality in the case of dual nationals was a permissible practice if it was not arbitrary or discriminatory. The Commission rejected Eritrea's argument that the denationalization and subsequent expulsion of persons with dual Ethiopian and Eritrean nationality were contrary to international law.[164] It held that the persons concerned had in fact acquired dual Ethiopian and Eritrean nationality as a result of the proclamation issued by Eritrea's Provisional Government on eligibility for citizenship for the purposes of the referendum and the establishment of the new State.[165] Thus, Ethiopia did not violate international law by denationalizing those of its citizens who had become dual nationals by acquiring Eritrean nationality.[166] On the other hand, the Commission held that the expulsion from Ethiopia of dual nationals — largely from small towns — by the local authorities for security

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[163] See, for example, art. 34 of Law No. 68-LF-3 of 11 June 1968 on the Cameroonian Nationality Code.

[164] Permanent Court of Arbitration, Eritrea-Ethiopia Claims Commission, *Partial Award, Civilians Claims, Eritrea's Claims 15, 16, 23 and 27-32, between the State of Eritrea and the Federal Democratic Republic of Ethiopia*, The Hague, 17 December 2004, paras. 79-80, *International Legal Materials*, vol. 44, p. 601 (May 2005) (hereinafter "Eritrea Award"). See also Won Kidane, "Civil Liability for Violations of International Humanitarian Law: The Jurisprudence of the Eritrea-Ethiopia Claims Commission in The Hague", *Wisconsin International Law Journal*, vol. 25, 2007, pp. 23-87, especially p. 52.

[165] Eritrea Award, paras. 40 and 45. See also Proclamation No. 21/1992 of the Provisional Government of Eritrea, 6 April 1992 ("Eritrean Proclamation") (establishing various means of acquiring Eritrean nationality, including birth, marriage and naturalization).

[166] Eritrea Award, paras. 43 and 46. See also Human Rights Watch, *The Horn of Africa War: Mass Expulsions and the Nationality Issue (June 1998-April 2002)*, vol. 15, No. 3 (A), January 2003.

reasons, and the expulsion of many others against their will, were arbitrary and thus contrary to international law. In other words, what the Commission objected to in this case was not expulsion on the ground of dual nationality, but the arbitrary nature of that expulsion.

31. A number of scenarios can be envisaged with respect to expulsion following loss of nationality or denationalization.

32. In cases of dual nationality, must the person concerned necessarily be expelled to the State of the remaining nationality if it is not the "denationalizing" State? Can the expelled person object to this? If so, what action is taken?

33. In principle, the expelling State in such cases has the right to expel the person to the State of the remaining nationality because denationalization ends the situation of dual nationality; the expelled person henceforth has only the nationality of the latter State, whether or not it was the dominant nationality prior to denationalization. Recent examples illustrating actual denationalization on the basis of dual nationality are those of Turkmenistan[167] and Turkey,[168] while examples of the threatened denationalization of dual nationals are found in France,[169] the United Kingdom and the Netherlands,[170] particularly when the persons in question are linked to radical Islamic movements. The United Kingdom has specified that its legislation allows the Government to denaturalize individuals who have been convicted of a serious crime unless such persons would thereby become stateless.[171] However, if the person subject to expulsion does not want to be expelled to the State of which he or she now has sole nationality or if the person has reason to fear for his or her life or risks being subjected to torture or degrading treatment in that country, he or she may be expelled to a third State with the latter's consent.

34. For cases of multiple nationality, one scenario to consider is that in which the "denationalizing" State is the State of dominant nationality. In such a case, the same

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[167] Lynn Shaver, "The Revocation of Dual Citizenship in Turkmenistan", *Human Rights Brief*, vol. 11(1), 2003, p. 5. (President Niyazov announced that Turkmenistan was renouncing the 1993 bilateral agreement with the Russian Federation allowing for dual Russian-Turkmen nationality, which results in denationalization and potential expulsion of former nationals.)

[168] Ann Elizabeth Mayer, "A 'Benign' Apartheid: How Gender Apartheid Has Been Rationalized", *UCLA Journal of International Law and Foreign Affairs*, vol. 5, No. 2 (2000-2001) p. 237, especially pp. 312-313 (discussing the denationalization case of member of parliament Merve Kavakci, who was a member of the Islamist Virtue Party, wore a headscarf to parliament and acquired United States nationality without Government permission), citing *Headscarf Deputy Is Stripped of Turkish Citizenship*, Deutsche Presse-Agentur (15 May 1999).

[169] "The French lesson", *The Economist* 25-6 (13 August 2005) (discussing Nicolas Sarkozy's speculation, as Interior Minister, that France could revoke the nationality of dual nationals who were radical imams who promoted terrorism).

[170] See, for example, Ian Bickerton, "Dutch murders result in tighter terrorism laws", *Financial Times* 2 (15 July 2005); "Dealing with traitors", *The Economist* 12-3 (13 August 2005) (discussing proposals in the United Kingdom and the Netherlands to adopt laws on revocation of the nationality of dual nationals who embrace radical Islam).

[171] Report of the Secretary-General (E/CN.4/1999/56), para. 31 (b) (citing the United Kingdom's reply of 26 October 1998: "A person who acquired [one of the various forms of British nationality] by or as a result of naturalization or registration otherwise than under the British Nationality Acts 1948 to 1964 may additionally be deprived of that citizenship or status if he or she: [...] (iii) Has, within five years of the date of registration or naturalization, been sentenced to imprisonment for at least 12 months and would not, on losing British nationality, become stateless").

reasoning outlined above in respect of dual nationality could apply, with the sole difference that there would be not one but two or more States of remaining nationality. Another scenario would be one in which the expelling State is not the State of dominant nationality. In this case, expulsion should preferably be to the State of dominant nationality.

35. The Special Rapporteur is not convinced of the necessity or even the practical utility of proposing one or more draft articles on the issues dealt with in the present report, primarily for the following reasons:

(a) As the power to confer nationality is within the sovereign jurisdiction of each State, the State may establish in its domestic legislation conditions for the loss of its nationality and for the denationalization of its nationals provided that this does not result in statelessness and the denationalization is not arbitrary or discriminatory. This is not, strictly speaking, connected to the issue of expulsion of aliens, since the rules referred to above would apply even if the loss of nationality or denationalization were not followed by expulsion. These rules therefore pertain more to the laws governing nationality than to the laws governing the expulsion of aliens;

(b) Specifically with respect to expulsion, it has been noted that in cases of dual nationality where there is no risk of statelessness, the loss of nationality or denationalization brings about a situation of sole nationality in which the person in question is subject to ordinary-law provisions concerning expulsion. There is thus no need to set out rules specific to this scenario;

(c) Only in cases of multiple nationality do special situations arise: the first is one in which it is necessary to decide to which other State of nationality a State can expel a person who has lost the nationality of the expelling State or has been denationalized, particularly when the expelling State is not the State of dominant nationality of the person in question; the second is one in which the expelled person, exercising his or her right to choose, particularly in the case of succession of States, decides to be a national of the State that intends to expel the person by reason of his or her adoption of a new nationality. In both cases, however, past practice is sorely lacking, although this issue, too, essentially concerns the rules on the nationality of natural persons. Accordingly, the Special Rapporteur is not convinced that it would be worthwhile for the Commission to prepare draft rules for these situations, even in the interest of progressive development of international law.